IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 19058 OF 2005

Date: 05.09.2005

BETWEEN:

Dr. U.B.S.V.P. Rama Varma

@ Dr. U. Rama Varma

…. PETITIONER

Vs.

1. The Municipal Corporation of Hyderabad, rep. by its commissioner, Hyderabad, and others.

…. RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 19058 OF 2005

ORDER:

The petitioner claims to be the owner of the premises bearing No.8-3-4 of St. Mary's Road, Secunderabad. The Municipal Corporation of Hyderabad (MCH) sent a communication to the petitioner in the year 2003 requesting the petitioner and other owners of the same place to give their consent for handing over advance possession of the land, which would be affected in the road-widening programme taken up by MCH. The petitioner and others apprehending the high-handed action of demolition of the property, filed a writ petition being W.P.No.6577 of 2003 before this court (petitioner herein is petitioner No.42 in the said writ petition) for a *Writ of Mandamus* declaring the action of the respondents in demolishing the premises situated at St. Mary's Road, Secunderabad, as illegal and arbitrary. By order dated 21.4.2003 I disposed of the writ petition following the Division Bench judgment of this court in **P. Lakshmana Rao v. Executive Officer** directing the MCH to follow the guidelines laid down by the Division Bench while acquiring the land for road widening programme.

It is the case of the petitioner that MCH did not follow the guidelines laid down by the Division Bench. Be that as it is, the MCH again issued a communication dated 23.8.2005 informing the petitioner that an extent of 41.97 sq. yards of the petitioner's property bearing No.8-3-4 would be affected by the road widening programme on St. Mary's Road taken up by the MCH and the petitioner was requested to give his consent and handover advance possession. The petitioner was also promised compensation for affected structures and also for benefits as provided under the Government Order for grant of floor area space. The petitioner asserts that he has not given consent to the said communication. Presumably for this reason, the respondent initiated proceedings under Section 147 of the Hyderabad Municipal Corporation Act, 1955 (for shot 'the HMC Act') to acquire the land of the petitioner and others in accordance with the provisions of Land Acquisition Act, 1894 (for short 'the L.A. Act'). After receiving the notice under Sections 9(3) and 10 of the L.A. Act, the petitioner has filed a claim petition before the Special Deputy Collector (L.A.), MCH, claiming compensation of Rs.3,05,86,456/-. The award enquiry is still pending.

The petitioner alleges that after initiation of proceedings under L.A. Act, the MCH issued other communications dated 11.8.2005 and 22.8.2005 requesting for consent of the petitioner. It is now alleged that even before the enquiry is pending, the petitioner was served with notices dated 23.8.2005 on 27.8.2005 at 7.30 p.m. and allegedly are taking steps for demolition of the structures. Therefore, the petitioner filed the present writ petition for declaring the action of the respondents in taking steps in attempting to demolish the structures of his house pursuant to the letter dated 23.8.2005 as illegal and arbitrary.

The learned counsel for the petitioner besides reiterating the grounds urged in the affidavit accompanying the writ petition also submits that the first respondent high-handedly demolished the structures of the petitioner's house and therefore, the petitioner is entitled for damages for the structures. Per contra, the learned Standing Counsel for MCH submits that the petitioner gave conditional consent asking *nala* area adjacent to the petitioner's house in lieu of his land and compensation. He has also placed before this court a copy of the letter dated 31.8.2005 addressed by the Commissioner of MCH to the petitioner, which would show that the petitioner's request for compensate area in the *nala* adjacent to the building is rejected. Further it is brought to the notice of this court that award enquiry before the Special Deputy Collector (L.A.) is pending.

This court in cases where MCH served letters soliciting the consent of the landowners for road widening programme, categorically held that if the landowners refused to give their consent, the MCH has to necessarily follow the procedure under Section 147 of HMC Act and acquire the land in accordance with the L.A. Act. In this case, precisely this has been done and award enquiry is pending. If the land owner is suffered from any other damage by reason of such acquisition, it is always open to him/her to claim compensation in accordance with Section 23 of the L.A. Act, and it would not be proper for this Court to pass any orders for damages in favour of the petitioner. It is brought to the notice of this court that while issuing notice under L.A. Act, the enquiry under Section 5-A was dispensed with in exercise of powers conferred under Section 7(4) of the Act. The same is recorded and the Writ Petition is disposed of accordingly at the admission stage directing the respondents not to interfere with the right of the petitioners to enjoy his property. The Special Deputy Collector and Land Acquisition Officer, MCH may complete the award enquiry and pass appropriate award within a period of six weeks from the date of receipt of

a copy of this order.

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(**V.V.S. RAO, J.)**

5th September, 2005

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